REMARKS

Claims 1-3, 8, 9, 24, and 31-45 are pending. Claims 1, 24, and 44 have been amended. No new matter has been added. Support for the claim amendments may be found in the specification, drawings, and claims as originally filed.

Claims 1-3, 8, 9, 24, 34-36, 38, 41, and 44 are Allowable

The Office has rejected claims 1-3, 8, 9, 24, 34-36, 38, 41, and 44, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,698,020 ("Zigmond") in view of U.S. Patent No. 5,646,675 ("Copriviza") in further view of U.S. Patent No. 6,002,393 ("Hite") in further view of U.S. Patent No. 7,006,606 ("Cohen"). Applicants respectfully traverse the rejections.

The cited portions of Zigmond, Copriviza, Hite, and Cohen do not disclose or suggest the specific combination of claim 1. For example, the cited portions of Zigmond, Copriviza, Hite, and Cohen fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 1.

Zigmond describes a statistics collection location 61 that counts a <u>number</u> of times that a particular viewer has seen a selected advertisement. The cited portions of Zigmond do not disclose or suggest selecting an advertisement based on <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 1. Further, the Office admits that Zigmond does not disclose identifying a set of <u>allowable</u> advertisements. *See* Office Action, p. 4 (Emphasis Added). Still further, the Office admits that Zigmond does not disclose selecting a particular advertisement from a set of allowable advertisements to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, as in claim 1. *See*

Office Action, p. 5 (Emphasis Added). Therefore, the cited portions of Zigmond do not disclose or suggest selecting a particular advertisement from a set of <u>allowable</u> advertisements (stored at a media delivery device) to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 1.

Copriviza describes a table that shows an <u>actual broadcast time</u> of a number of commercials determined after reviewing a tape. *See* Copriviza, col. 39, line 65 to col. 40, line 8 (Emphasis Added). The Office cites as examples the "Mars Skittle" advertisement being shown from the 5:55 time until the 6:10 time and the "Diet Coke" advertisement being shown from the 6:25 time until the 6:55 time. *See* Office Action, p. 3, referring to Figs. 15 and 16. Applicants respectfully submit that determining an <u>actual broadcast time</u> of an advertisement is different from determining <u>whether an advertisement was viewed at full length</u>, as in claim 1. Further, the Office admits that Copriviza does not disclose selecting a particular advertisement from a set of allowable advertisements to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, as in claim 1. *See* Office Action, p. 5 (Emphasis Added). Therefore, the cited portions of Copriviza do not disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 1.

Hite describes assigning advertisements to certain categories, such as non-preemptable, conditionally preemptable, and unconditionally preemptable. *See* Hite, col. 2, lines 18-38. Hite describes keeping track of the <u>number</u> of successfully displayed commercials so that an advertiser can be assured that the commercial has been displayed at the subscriber's location at

least the number of times specified in his contract. *See* Hite, col. 2, line 66 to col. 3, line 8 (Emphasis Added). The cited portions of Hite do not disclose or suggest determining whether a particular targeted advertisement was viewed at full length <u>during a most recent playback,</u> as in claim 1. Further, the Office admits that Hite does not disclose selecting a particular advertisement from a set of allowable advertisements to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, as in claim 1. *See* Office Action, p. 5 (Emphasis Added). Therefore, the cited portions of Hite do not disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback,</u> as in claim 1.

Cohen describes combining scores from various vendors, then ranking and ordering the combined scores in order to determine an advertisement to be displayed. In this way, it is possible for a vendor to select a particular advertisement to direct to a consumer according to the consumer's attributes. *See* Office Action, p. 5, referring to Cohen, Fig. 8; col. 13, line 49 to col. 15, line 17. The cited portions of Cohen do not disclose or suggest selecting an advertisement from a set of allowable advertisements <u>stored at a media delivery device,</u> as in claim 1. In Cohen, when a consumer is identified <u>at a web site,</u> attributes associated with the consumer are recalled <u>from a database</u> so as to be used in computing which ad to display. *See* Office Action, p. 5 (Emphasis Added). Thus, in Cohen, a set of allowable advertisements are not <u>stored at a media delivery device,</u> as in claim 1. Rather, advertisements are stored at a database associated with the web site. Further, the cited portions of Cohen do not disclose or suggest selecting an advertisement based on <u>whether a particular targeted advertisement was viewed at full length during a most recent playback,</u> as in claim 1. Therefore, the cited portions of Cohen do not disclose or suggest selecting a particular advertisement from a set of allowable advertisements (<u>stored at a media delivery device</u>) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of

allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 1.

Therefore, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 1. Hence, claim 1 is allowable. Claims 2, 3, 8, 9, 34-36, 38, and 41 are allowable, at least by virtue of their dependence from claim 1.

The cited portions of Zigmond, Copriviza, Hite, and Cohen do not disclose or suggest the specific combination of claim 24. For example, the cited portions of Zigmond, Copriviza, Hite, and Cohen fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 24.

Zigmond describes a statistics collection location 61 that counts a <u>number</u> of times that a particular viewer has seen a selected advertisement. The cited portions of Zigmond do not disclose or suggest selecting an advertisement based on <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 24. Further, the Office admits that Zigmond does not disclose identifying a set of <u>allowable</u> advertisements. *See* Office Action, p. 4 (Emphasis Added). Still further, the Office admits that Zigmond does not disclose selecting a particular advertisement from a set of allowable advertisements to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, as in claim 24. *See* Office Action, p. 5 (Emphasis Added). Therefore, the cited portions of Zigmond do not disclose or suggest selecting a particular advertisement from a set of <u>allowable</u> advertisements (stored at a media delivery device) to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements,

where the weighted characteristics include at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 24.

Copriviza describes a table that shows an <u>actual broadcast time</u> of a number of commercials determined after reviewing a tape. *See* Copriviza, col. 39, line 65 to col. 40, line 8 (Emphasis Added). The Office cites as examples the "Mars Skittle" advertisement being shown from the 5:55 time until the 6:10 time and the "Diet Coke" advertisement being shown from the 6:25 time until the 6:55 time. *See* Office Action, p. 3, referring to Figs. 15 and 16. Applicants respectfully submit that determining an <u>actual broadcast time</u> of an advertisement is different from determining <u>whether an advertisement was viewed at full length</u>, as in claim 24. Further, the Office admits that Copriviza does not disclose selecting a particular advertisement from a set of allowable advertisements to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, as in claim 24. *See* Office Action, p. 5 (Emphasis Added). Therefore, the cited portions of Copriviza do not disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 24.

Hite describes assigning advertisements to certain categories, such as non-preemptable, conditionally preemptable, and unconditionally preemptable. *See* Hite, col. 2, lines 18-38. Hite describes keeping track of the <u>number</u> of successfully displayed commercials so that an advertiser can be assured that the commercial has been displayed at the subscriber's location at least the number of times specified in his contract. *See* Hite, col. 2, line 66 to col. 3, line 8 (Emphasis Added). The cited portions of Hite do not disclose or suggest determining whether a particular targeted advertisement was viewed at full length <u>during a most recent playback</u>, as in claim 24. Further, the Office admits that Hite does not disclose selecting a particular advertisement from a set of allowable advertisements to be inserted into a media delivery stream by <u>applying a weighting to at least one characteristic</u> of each of the allowable advertisements of

the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, as in claim 24. *See* Office Action, p. 5 (Emphasis Added). Therefore, the cited portions of Hite do not disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 24.

Cohen describes combining scores from various vendors, then ranking and ordering the combined scores in order to determine an advertisement to be displayed. In this way, it is possible for a vendor to select a particular advertisement to direct to a consumer according to the consumer's attributes. *See* Office Action, p. 5, referring to Cohen, Fig. 8; col. 13, line 49 to col. 15, line 17. The cited portions of Cohen do not disclose or suggest selecting an advertisement from a set of allowable advertisements stored at a media delivery device, as in claim 24. In Cohen, when a consumer is identified at a web site, attributes associated with the consumer are recalled from a database so as to be used in computing which ad to display. *See* Office Action, p. 5 (Emphasis Added). Thus, in Cohen, a set of allowable advertisements are not stored at a media delivery device, as in claim 24. Rather, advertisements are stored at a database associated with the web site. Further, the cited portions of Cohen do not disclose or suggest selecting an advertisement based on whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 24. Therefore, the cited portions of Cohen do not disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 24.

Therefore, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 24. Hence, claim 24 is allowable.

The cited portions of Zigmond, Copriviza, Hite, and Cohen do not disclose or suggest the specific combination of claim 44. For example, the cited portions of Zigmond, Copriviza, Hite, and Cohen fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each allowable advertisement of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 44.

As explained above, the cited portions of Zigmond describe a statistics collection location that counts a number of times that a particular viewer has seen a selected advertisement. The cited portions of Zigmond do not disclose or suggest selecting an advertisement based on at least whether a particular targeted advertisement was viewed at full length during a most recent playback. Copriviza describes determining an actual broadcast time of an advertisement, not determining whether an advertisement was viewed at full length during a most recent playback. Hite describes keeping track of the number of successfully displayed commercials so that an advertiser can be assured that the commercial has been displayed at the subscriber's location at least the number of times specified in his contract. *See* Hite, col. 2, line 66 to col. 3, line 8 (Emphasis Added). The cited portions of Hite do not disclose or suggest categorization based on whether a particular targeted advertisement was viewed at full length during a most recent playback. In Cohen, when a consumer is identified at a web site, attributes associated with the consumer are recalled from a database so as to be used in computing which ad to display. *See* Office Action, p. 5 (Emphasis Added). In Cohen, a set of allowable advertisements are not stored at a media delivery device. Rather, advertisements are stored at a database associated with the web site. Further, the cited portions of Cohen do not disclose or suggest selecting an advertisement based on at least whether a particular targeted advertisement was viewed at full length during a most recent playback.

Therefore, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, fail to disclose or suggest at least one element of claim 44. Hence, claim 44 is allowable.

Claim 31 is Allowable

The Office has rejected claim 31, under 35 U.S.C. §103(a), as being unpatentable over Zigmond in view of Hite in further view of Copriviza in further view of Cohen in further view of U.S. Patent No. 5,835,087 ("Herz"). Applicants respectfully traverse the rejection.

Claim 31 depends from claim 24. As explained above, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, do not disclose or suggest at least one element of claim 24. The cited portions of Herz fail to disclose or suggest the elements of claim 24 that are not disclosed or suggested by the cited portions of Zigmond, Copriviza, Hite, and Cohen. The Office asserts that Herz discloses a target object that may include numeric measurements, such as the price of a product. *See* Office Action, p. 15, citing Herz, col. 6, lines 1-33. Applicants respectfully submit that the cited portions of Herz fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 24. Therefore, the cited portions of Zigmond, Copriviza, Hite, Cohen, and Herz, individually or in combination, fail to disclose or suggest at least one element of claim 24, from which claim 31 depends. Hence, claim 31 is allowable, at least by virtue of its dependence from claim 24.

Claims 32 and 33 are Allowable

The Office has rejected claims 32 and 33, under 35 U.S.C. §103(a), as being unpatentable over Zigmond in view of Copriviza in further view of Hite in further view of Cohen in further view of U.S. Patent No. 6,078,412 ("Fuse"). Applicants respectfully traverse the rejections.

Claim 32 depends from claim 1. As explained above, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, do not disclose or suggest at least one element of claim 1. The cited portions of Fuse fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Copriviza, Hite, and Cohen. Fuse describes a system for simultaneously optically transmitting a plurality of

digital modulation signals using an analog SCM transmission technique. The cited portions of Fuse fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 1. Therefore, the cited portions of Zigmond, Copriviza, Hite, Cohen, and Fuse, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claim 32 depends. Hence, claim 32 is allowable, at least by virtue of its dependence from claim 1.

Claim 33 depends from claim 24. As explained above, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, do not disclose or suggest at least one element of claim 24. The cited portions of Fuse fail to disclose or suggest the elements of claim 24 that are not disclosed or suggested by the cited portions of Zigmond, Copriviza, Hite, and Cohen. Fuse describes a system for simultaneously optically transmitting a plurality of digital modulation signals using an analog SCM transmission technique. The cited portions of Fuse fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 24. Therefore, the cited portions of Zigmond, Copriviza, Hite, Cohen, and Fuse, individually or in combination, fail to disclose or suggest at least one element of claim 24, from which claim 33 depends. Hence, claim 33 is allowable, at least by virtue of its dependence from claim 24.

Claims 37 and 39 are Allowable

The Office has rejected claims 37 and 39, under 35 U.S.C. §103(a), as being unpatentable over Zigmond in view of Copriviza in further view of Hite in further view of Cohen in further view of U.S. Patent No. 6,286,005 ("Cannon"). Applicants respectfully traverse the rejections.

Claims 37 and 39 depend from claim 1. As explained above, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, do not disclose or suggest at least one element of claim 1. The cited portions of Cannon fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Copriviza, Hite, and Cohen. Cannon describes scoring advertisements based on their ability to meet certain objectives and that an advertisement may be deleted and replaced based on the scores. *See* Office Action, p. 16, citing Cannon, Fig. 13; col. 31, line 49 to col. 33, line 67. The cited portions of Cannon fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least whether a particular targeted advertisement was viewed at full length during a most recent playback, as in claim 1. Therefore, the cited portions of Zigmond, Copriviza, Hite, Cohen, and Cannon, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claims 37 and 39 depend. Hence, claims 37 and 39 are allowable, at least by virtue of their dependence from claim 1.

Claim 40 is Allowable

The Office has rejected claim 40, under 35 U.S.C. §103(a), as being unpatentable over Zigmond in view of Copriviza in further view of Hite in further view of Cohen in further view of U.S. Patent No. 6,876,974 ("Marsh"). Applicants respectfully traverse the rejection.

Claim 40 depends from claim 1. As explained above, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, do not disclose or suggest at least one element of claim 1. The cited portions of Marsh fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Copriviza, Hite, and Cohen. Marsh describes "avoiding starvation, that is, where a commercial reaches its expiration date without having reached its maximum number of exposures, is a condition that should be avoided in order to maximize revenue." *See* Office Action, p. 17, citing Marsh, col. 9, lines 51-65. The cited portions of Marsh fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be

inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 1. Therefore, the cited portions of Zigmond, Copriviza, Hite, Cohen, and Marsh, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claim 40 depends. Hence, claim 40 is allowable, at least by virtue of its dependence from claim 1.

Claims 42 and 43 are Allowable

The Office has rejected claims 42-43, under 35 U.S.C. §103(a), as being unpatentable over Zigmond in view of Copriviza in further view of Hite in further view of Cohen in further view of U.S. Patent Publication No. 2003/0149601 ("Cabral"). Applicants respectfully traverse the rejections.

Claims 42 and 43 depend from claim 1. As explained above, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, do not disclose or suggest at least one element of claim 1. The cited portions of Cabral fail to disclose or suggest the elements of claim 1 that are not disclosed or suggested by the cited portions of Zigmond, Copriviza, Hite, and Cohen. Cabral describes restricting "certain types of advertisements, such as advertisements for adults, which may include alcohol or real estate, during certain times." *See* Office Action, p. 18, citing Cabral, paragraph [0058]. The cited portions of Cabral fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each of the allowable advertisements of the set of allowable advertisements and comparing at least one weighted characteristic of each of the allowable advertisements, where the at least one weighted characteristic includes at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 1. Therefore, the cited portions of Zigmond, Copriviza, Hite, Cohen, and Cabral, individually or in combination, fail to disclose or suggest at least one element of claim 1, from which claims 42 and 43 depend. Hence, claims 42 and 43 are allowable, at least by virtue of their dependence from claim 1.

Claim 45 is Allowable

The Office has rejected claim 45, under 35 U.S.C. §103(a), as being unpatentable over Zigmond in view of Copriviza in further view of Hite in further view of Cohen in further view of U.S. Patent Publication No. 2002/0069105 ("Rosario Botelho") in further view of U.S. Patent No. 6,493,709 ("Aiken"). Applicants respectfully traverse the rejection.

Claim 45 depends from claim 44. As explained above, the cited portions of Zigmond, Copriviza, Hite, and Cohen, individually or in combination, do not disclose or suggest at least one element of claim 44. The cited portions of Rosario Botelho and Aiken fail to disclose or suggest the elements of claim 44 that are not disclosed or suggested by the cited portions of Zigmond, Hite, and Cohen. For example, the cited portions of Rosario Botelho and Aiken fail to disclose or suggest selecting a particular advertisement from a set of allowable advertisements (stored at a media delivery device) to be inserted into a media delivery stream by applying a weighting to at least one characteristic of each allowable advertisement of the set of allowable advertisements and comparing weighted characteristics of each of the allowable advertisements, where the weighted characteristics include at least <u>whether a particular targeted advertisement was viewed at full length during a most recent playback</u>, as in claim 44. Therefore, the cited portions of Zigmond, Copriviza, Hite, Cohen, Rosario Botelho, and Aiken, individually or in combination, fail to disclose or suggest at least one element of claim 44, from which claim 45 depends. Hence, claim 45 is allowable, at least by virtue of its dependence from claim 44.

CONCLUSION

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the cited portions of the cited references as applied in the Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the rejections, as well as an indication of the allowability of each of the pending claims.
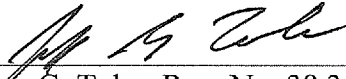
Any changes to the claims in this response that have not been specifically noted to overcome a rejection based upon the cited references should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

_7-23-2010_
Date

Jeffrey G. Toler, Reg. No. 38,342
Attorney for Applicants
Toler Law Group, Intellectual Properties
8500 Bluffstone Cove, Suite A201
Austin, Texas 78759
(512) 327-5515 (phone)
(512) 327-5575 (fax)